

**470** \*It is admitted, however, in this case, that the strip of land in question was not included within the boundaries of the tract called Cole's Harbor, of which John Smith's lot was a part; and, that no patent had been granted for it to any one; whence it is clear, that, as it might have been, at any time, made the subject of a distinct grant; and could not be attached to any other tract, as an incident or appurtenant, and no title to it had

The petition of Thomas Hyde, of the City of Annapolis, humbly sheweth, That your petitioner is seised in fee of a lot of ground on the south-east side of Bishop street, at the head of the Cove, south-west of the city, which said lot begins at a locust post standing upon the bank by the said Cove; and runs from thence south eighty degrees, west ninety-nine feet to another locust post; then north sixty degrees, west two hundred and seventy feet to another locust post at the end of the line of Bishop's street; then with Bishop street north-east one hundred and forty-eight feet and one-half, to a locust post of Mr. James Carrol's lot; then with a straight line to the beginning.

Your petitioner further sheweth to your Excellency and Honors, that your petitioner's first course extends the whole length of the head of the Cove, and nearly parallel to the same; and that originally the tide-water flowed up to his said course; though now, by the filling up of the Cove for the purpose of a tan-yard, a considerable piece of ground intervenes between your petitioner's first course and high water mark; which said ground, your petitioner, to prevent controversies hereafter, is willing to purchase of his lordship. Your petitioner therefore prays a special order for a warrant of resurvey of the said lot and ground; and that, upon paying a reasonable consideration for the said ground, your petitioner may have patent for the same; and your petitioner as in duty bound will pray, &c.

1st April, 1771.—The commissioners for the sale of his lordship's manors, &c. being of opinion, that they are not empowered to dispose of any land within the city. His Excellency the Governor was pleased to signify, that if Mr. Hyde would petition his lordship, he would forward the same; and, in the interim, no person could claim any prior title thereto.—MS.

This shews, that there was then no pre-emption right in the owner of any tract to any vacancy originally existing, or afterwards made, not alluvion, lying between such tract and the tide; and that such vacancy was considered as land subject, like any other land, to be sold in the land office. But in this particular case it was not liable to be so taken up by a warrant of resurvey, because, as appears by the following among other instructions given by the board of revenue to his lordship's agent and receiver-general, the taking up of any such land had been prohibited by a reserve, the then existence of which must have been the cause why no patent could be granted to Hyde.

30th June, 1768.—“A reserve being laid on all vacant land that now is or shall or may be hereafter found within the City of Annapolis and Town of Baltimore, or within five miles round the said city and town, be it by escheat or otherwise, you are not to do any act, that may affect these lands, without particular instructions from his lordship or this board.”—*Proceedings of the Board of Revenue, fol. 22—a book in the Land Office.*